

MASS. SEP. 20 1991
COMMONWEALTH OF MASSACHUSETTS
STATE ETHICS COMMISSION

SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 985

IN THE MATTER

OF

GEORGE KEVERIAN

DISPOSITION AGREEMENT

This Disposition Agreement (Agreement) is entered into between the State Ethics Commission (Commission) and George Keverian (Speaker Keverian) pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final Commission order enforceable in the Superior Court pursuant to G.L. c. 268B, §4(j).

On April 12, 1989, the Commission initiated a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Speaker Keverian. The Commission concluded its inquiry and, on February 28, 1990, found no reasonable cause to believe that Speaker Keverian had violated §§3 and 23(b)(2) of G.L. c. 268A or §7 of G.L. c. 268B in connection with the facts as set forth below; and on the same date found reasonable cause to believe that Speaker Keverian violated G.L. c. 268A, §23(b)(3), which provision is part of the statute's supplemental code of conduct.

The Commission and Speaker Keverian now agree to the following findings of fact and conclusions of law:

1. Speaker Keverian has been Speaker of the Massachusetts House of Representatives since January 2, 1985. As such he is a state employee as defined in G.L. c. 268A, §1(q).
2. As Speaker, he has been responsible for, among other matters, the operation of the Speaker's Office. The Speaker's Office employs a number of full-time people including, but not limited to, a chief of staff, business manager, various maintenance staff (including a maintenance coordinator), photographers, and secretaries. The Speaker's Office also is, as a practical matter, responsible for providing all goods and services necessary for the operation of the House. Thus it is through the Speaker's Office that the House purchases its furniture, stationery, computers, cleaning services, and the like. Because of his legislative responsibilities, the Speaker delegates the management of those matters to his chief of staff or business manager.
3. In August 1984, before Speaker Keverian became Speaker, the Speaker's Office hired Richard F. Sousa (Sousa) as the House maintenance coordinator. Sousa's regular workday was from 7:00 a.m. until 3:30 p.m. His starting

salary was \$36,750. That salary was increased each year on January 1. The January 1, 1988 increase to \$42,718, and the January 1, 1989 increase to \$44,854 involved the same percentage increases given to all other Speaker's Office personnel.

4. In or about December 1986 or January 1987, Speaker Keverian decided to do substantial renovations on his four-family home at 116 Irving Street, Everett. Renovation work began in approximately February or March, 1987 and was substantially completed by the summer of 1988.

5. In or about April or May, 1987, Speaker Keverian had to hire a carpenter to replace the carpenter who had been working on his renovations. Speaker Keverian was initially unsuccessful in locating a new carpenter. He then asked Sousa whether Sousa knew of anyone who could do the work. Speaker Keverian and Sousa ultimately agreed that Sousa would perform the work in his spare time. Speaker Keverian stated that he directed Sousa to perform this work on personal time, not on state time, i.e., at night and on weekends, and by taking vacation time whenever Sousa worked at Speaker Keverian's home during his normal working hours. Sousa informed the Commission that he did the work in accordance with those directions. Personnel records reflecting Sousa's vacation time for this period no longer exist.

6. Between July 1987 and August 1988, Sousa worked approximately 1,100 hours at Speaker Keverian's residence, charging \$15 an hour, and receiving approximately \$16,000 for his services. Frank Tunnera and Charles Eliopoulos, two House maintenance workers hired by the Speaker's Office, also worked at Speaker Keverian's residence during this time, also charging \$15.00 an hour, and each receiving approximately \$1,000. Speaker Keverian paid Sousa, Tunnera and Eliopoulos by check. The hourly rate paid by Speaker Keverian was reasonable. This finding is based on a Commission survey of carpenters in the area, carpenters' affidavits supplied by Speaker Keverian, and published government data on rates charged.

7. Beginning in July, 1985, Michael Mouradian, doing business through a franchise known as Continental Chem-Dry, was hired by the Speaker's Office to perform rug cleaning services at the House. It is unclear as to who hired Mouradian to do this work. Speaker Keverian stated he had nothing to do with Mouradian's hiring. By the end of the summer of 1985, however, Speaker Keverian was aware that Mouradian had been so hired.

8. There is a 50-year history of family, cultural, ethnic and friendship ties between Speaker Keverian and

Mouradian. Their families maintained close personal contacts when Speaker Keverian and Mouradian were children, and Speaker Keverian and Mouradian continued that friendship to the present.

9. Continental Chem-Dry did the following amounts of business at the House for each of the following calendar years: 1985 (\$2,135); 1986 (\$5,308); 1987 (\$8,598); 1988 (\$13,966).

10. Speaker Keverian approved many of the Continental Chem-Dry invoices for payment as part of his routine and usual procedure for approving invoices submitted to the House of Representatives by various vendors, after review by the Speaker's Office personnel.

11. The Commission is aware of no evidence to indicate that the business manager or any one else in the Speaker's Office put the foregoing rug cleaning business out to bid, or otherwise made an effort to ascertain whether Mouradian's price was reasonable. The House of Representatives and the Speaker's Office are, and have been for many years, exempt from any legal requirements that work such as that performed by Continental Chem-Dry be put out to bid. See G.L. c. 12A. The long-standing, customary practice of the House and the Speaker's Office was to deal with such vendors without

requiring any bid procedures. The Commission, however, is also unaware of any evidence of criticisms of the quality of the work performed for the House by Mouradian.

12. In or about February 1987, after Speaker Keverian had decided to renovate his residence, he called Mouradian for advice regarding the storage of a large oriental rug inherited by Speaker Keverian from his mother. That conversation led to Mouradian volunteering to go to Speaker Keverian's residence and pick up and store the large rug and three or four smaller oriental rugs. Each of these was stored and cleaned at Melrose Oriental Rug Company, Mouradian's business, and some of the smaller rugs were repaired. Mouradian stated the value of these services was approximately \$550. Speaker Keverian cannot recall any details regarding the repairing and cleaning. Speaker Keverian stated to the extent Mouradian incurred any costs, he assumed Mouradian would submit a bill. No such bill was ever submitted.

13. Also as part of the renovations, it was necessary for Speaker Keverian to move all of his personal belongings out of his residence. Mouradian was one of several friends and relatives who offered assistance in the packing of Speaker Keverian's belongings. On two separate evenings, Mouradian, accompanied on the first evening by three

employees (one of whom was his son) of Melrose Oriental Rug Company, and on the second by two such employees, assisted Speaker Keverian in packing. Mouradian paid those employees \$192 for these services, but did not charge Speaker Keverian. Speaker Keverian was not aware that Mouradian, or Melrose Oriental Rug Company, was incurring any costs regarding this service. According to Speaker Keverian, a number of his friends including Mouradian, helped him to pack. While Speaker Keverian recalled Mouradian bringing his son and an employee on one occasion to help pack, Speaker Keverian further stated that had he known Mouradian was incurring any costs, he would not have accepted these services inasmuch as his other friends would have provided the assistance without any charge.

14. In or about November, 1987, Speaker Keverian purchased three oriental stair runners from Melrose Oriental Rug Company for \$1,860. Mouradian sold these three rugs to Speaker Keverian at or slightly over cost. At his normal mark-up, Mouradian would have sold those rugs for approximately \$3,350. Speaker Keverian stated he had no knowledge that he had purchased these rugs at or slightly over cost, and further he had no knowledge of any claim that the rugs had a retail value higher than the price he paid. Mouradian never told Speaker Keverian that he sold him the rugs at or slightly over cost.

15. In December, 1987, Mouradian suggested that he provide Speaker Keverian with several additional rugs to protect his newly finished hardwood floors. On December 11, 1987, Mouradian delivered seven additional oriental rugs on consignment, and listed those rugs on a Melrose Oriental Rug Company printed consignment form. The consignment slip indicates that these rugs had a retail value of \$3,917. Speaker Keverian stated that he accepted the consignment of these rugs so that he could inspect the rugs for a period of time to determine whether he wanted those particular rugs or others which might have been available. Under the terms of the consignment, Speaker Keverian was under no obligation to buy any of these rugs. Mouradian informed Speaker Keverian that under the terms of the consignment he did not believe he would lose any money if Speaker Keverian kept these rugs for an extended period of time because the rugs were insured and such rugs increase in value over time.^{1/}

16. All the foregoing rugs remained at Speaker Keverian's residence until October 8, 1988 when, at the Speaker's request, Mouradian provided a substitute for one of the rugs. The Melrose Oriental Rug Company consignment slips

^{1/}A number of rug dealers contacted by the Commission indicated that extended consignments of this type are not consistent with good business practice. The Commission is unaware of any evidence that Speaker Keverian knew of this.

indicate that a rug with an approximate retail value of \$3,085 was substituted for a rug with an approximate retail value of \$1,995. At that same time, Mouradian also delivered from Melrose Oriental Rug Company two additional oriental rugs to Speaker Keverian's residence. The consignment slip indicates that these two rugs had an approximate retail value of \$2,070. All of these rugs were covered by printed consignment forms filled out by Mouradian.

17. The rugs described above have remained in Speaker Keverian's residence to the present time. According to Speaker Keverian, through April, 1989, when he received notice of the Commission's investigation into these matters, he had not taken the time to make up his mind whether he would purchase these rugs or seek substitute rugs by visiting the Melrose Oriental Rug Company showroom. After April, 1989, when Speaker Keverian received the Commission's notice of its investigation, on advice of counsel he took no further steps regarding these rugs.

18. Mouradian stated the reason he stored, cleaned and repaired Speaker Keverian's rugs, sold rugs to him at or slightly above his cost, and allowed Speaker Keverian to keep rugs on consignment for this period of time without either paying for them or returning them was out of friendship.

19. Section 23(b)(3) of G.L. c. 268A prohibits a state employee from knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties. The Commission has consistently stated that public officials and employees must avoid entering into private commercial relationships with people they regulate in their public capacities. See, e.g., Commission Advisory No. 1; In the Matter of Frank Wallen, 1984 Ethics Commission 197; EC-COI-82-64. In the Commission's view, the reason for this prohibition is two fold: first, such conduct raises questions about the public official's objectivity and impartiality. For example, if lay-offs or cut-backs are necessary, an issue can arise regarding who will be terminated, the subordinate or vendor who has a significant private relationship with the public employee, or another person who does not enjoy any such relationship. At least the appearance of favoritism becomes unavoidable. Second, such conduct has the potential for serious abuse. Vendors or subordinates may feel compelled to provide private services where they would not otherwise do so. And even if in fact no abuse occurs, the possibility that the public official may have taken unfair advantage of the situation can never be completely eliminated. Consequently, the appearance of impropriety remains.

20. By hiring and paying House maintenance employees to work at his private residence during approximately a one-year period of time as detailed in paragraphs 3 through 6 above, Speaker Keverian entered into a significant private commercial relationship with House employees who work for the Speaker's Office. This conduct would cause a reasonable person knowing these facts to conclude that those employees can unduly enjoy Speaker Keverian's favor in the performance of his official duties. Therefore, Speaker Keverian violated G.L. c. 268A, §23(b)(3).

21. By participating in the various transactions involving oriental rugs and the packing of certain of his personal belongings as detailed in paragraphs 12 through 18 above, Speaker Keverian entered into a series of transactions, which taken individually, but especially in the aggregate, constituted a significant private relationship with a vendor who does work for the Speaker's Office. This conduct would cause a reasonable person knowing these facts to conclude that Mouradian can unduly enjoy Speaker Keverian's favor in the performance of his official duties. Therefore, Speaker Keverian violated G.L. c. 268A, §23(b)(3).^{2/}

^{2/} While the evidence indicates that Mouradian was motivated by friendship in providing these favors, in the Commission's view these personal ties and favors only serve

22. The Commission acknowledges that Speaker Keverian was not aware that his actions in hiring Speaker's Office employees to do work at his private residence could constitute a violation of §23(b)(3), and that he took steps to avoid such a violation by insisting that those employees do that work on their private time, and by paying them by check at a reasonable rate. As stated above, however, given the significant and simultaneous public and private relationships, in the Commission's view the only way for Speaker Keverian to have avoided violating §23(b)(3) regarding these actions was to disclose his conduct in accordance with §23, which provides in pertinent part:

It shall be unreasonable to so conclude [i.e., that any person can improperly influence or unduly enjoy the state employee's favor] if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.^{3/}

23. Similarly, the Commission acknowledges that Speaker Keverian was not aware that his private dealings with

to enhance the appearance of favoritism that arises when a public official has private dealings with a vendor who does business with his office.

^{3/} The Commission notes that this disclosure must be in writing and must be kept as a public record. For example, Speaker Keverian could have made a written disclosure to the Commission and/or to the Clerk of the House to be maintained in the public files.

Mouradian could constitute a violation of §23(b)(3). He believed that any considerations he was receiving were based on personal friendship. Again, however, avoidance of that violation arising from these simultaneous public and private relationships, would, in the Commission's view, have required public disclosure of these dealings as explained above.

In view of the foregoing violations of G.L. c. 268A, §23(b)(3), as set forth in paragraphs 20 and 21 above, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings or the imposition of a civil penalty. In deciding not to impose a fine, the Commission has taken into consideration the following: 1) The carpenters and Mouradian were all apparently willing participants in their respective commercial and private relationships with Speaker Keverian; and 2) The Commission is unaware of any evidence indicating that the above-mentioned Speaker's Office employees or Mouradian received any preferential treatment from Speaker Keverian in the performance of his official duties.

In disposing of this matter by this disposition agreement, Speaker Keverian has waived all rights to contest the findings of fact and conclusions of law contained in this

Agreement in this or any related administrative or judicial proceeding in which the Commission is or may be a party. Speaker Keverian has personally read this agreement and understands it is a public document.

AB
Andrew B. Crane

4/21/90
Date

George Keverian 4/19/90
George Keverian Date